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8	BEFORE	THE	
9	BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
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11	T. d. Matter of the Associate	ase No. 2510-434	
		ase Ivo.	
12	GENEVA LAUREN SMITH 4220 Santo Tomas E, Apt. C		
13	Los Angeles, CA 90008 Registered Nurse License No. 706037	CCUSATION	
14	Respondent.		
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17	Complainant alleges:		
18	PARTIES		
19	1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her		
20	official capacity as the Interim Executive Officer of the Board of Registered Nursing, Departmen		
21	of Consumer Affairs (Board).		
22	2. On or about July 2, 2007, the Board issued Registered Nurse License No. 706037 to		
23	Geneva Lauren Smith (Respondent). The Registered Nurse License was in full force and effect a		
24	all times relevant to the charges brought herein and will expire on July 31, 2011, unless renewed.		
25	<u>JURISDICTION</u>		
26	3. This Accusation is brought before the Board under the authority of the following		
. 27	laws. All section references are to the Business and Professions Code unless otherwise indicated		
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#### STATUTORY PROVISIONS

- 4. Section 118, subdivision (b), provides that the suspension, expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.
- 5. Section 490 provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.
- 6. Section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
  - 7. Section 2761 states, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- "(a) Unprofessional conduct, which includes, but is not limited to, the following:
- "(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice Act] or regulations adopted pursuant to it.
- "(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof. . . ."
  - 8. Section 2762 states, in pertinent part:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

- "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.
- "(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.
- "(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof. . . ."
- 9. Section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

#### REGULATORY PROVISIONS

10. California Code of Regulations, title 16, section 1444 states, in pertinent part:

"A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. . . ."

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#### COST RECOVERY

11. Section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

## CONTROLLED SUBSTANCES / DANGEROUS DRUGS

- 12. Marijuana is a hallucinogenic Schedule I controlled substance as defined in Health and Safety Code section 11054(d)(13) and a dangerous drug according to Business and Professions Code section 4022.
- 13. "Opiates" are defined by Health and Safety Code section 11020 as "any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having additions-forming or addiction-sustaining liability. . . ."

## FIRST CAUSE FOR DISCIPLINE

## (Substantially Related Conviction)

- 14. Respondent is subject to disciplinary action under sections 490 and 2761, subdivision (f), in conjunction with California Code of Regulations, title 16, section 1444, in that on or about March 10, 2009, Respondent was convicted of a crime substantially related to the functions or duties of a registered nurse which to a substantial degree evidences her present or potential unfitness as a registered nurse to practice in a manner consistent with the public health, safety, or welfare. The circumstances of the conviction are as follows:
- a. On or about March 10, 2009, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 23152(a) [driving while under the influence of alcohol or drugs] in the criminal proceeding entitled *The People of the State of California v. Geneva L. Smith* (Super. Ct. Los Angeles County, 2009, No. 9MP01337). The Court sentenced Respondent to three (3) days in jail and in lieu of ten (10) days in jail perform ten (10) days of Cal Trans, placed her on 36 months probation, and ordered her to complete a three (3) month First-Offender Alcohol/Drug Program and attend an additional ten (10) Alcoholics Anonymous/Narcotics Anonymous meetings, one (1) per week.

b. On or about January 12, 2009, while under the influence of marijuana and opiates, Respondent drove her vehicle into the rear of another's vehicle causing a three car collision.

Upon a search of Respondent's vehicle's center console, a hypodermic needle/syringe was found and booked into evidence. Respondent was arrested and her blood tested positive for opiates and marijuana, controlled substances and dangerous drugs.

#### SECOND CAUSE FOR DISCIPLINE

## (Conviction Involving a Controlled Substances/Dangerous Drugs)

15. Respondent is subject to disciplinary action under sections 2761, subdivision (a), and 2762, subdivision (c), on the grounds of unprofessional conduct, in that on or about March 10, 2009, Respondent was convicted of a criminal offense involving opiates and marijuana, controlled substances and dangerous drugs. Complainant refers to and by this reference incorporates the allegations set forth above in paragraph 14, subdivisions a and b, inclusive, as though set forth fully.

## THIRD CAUSE FOR DISCIPLINE

## (Dangerous Use of Controlled Substances/Dangerous Drugs)

16. Respondent is subject to disciplinary action under sections 2761, subdivision (a), and 2762, subdivision (b), on the grounds of unprofessional conduct, in that on or about January 12, 2009, Respondent used opiates and marijuana, controlled substances and dangerous drugs to an extent or in a manner dangerous or injurious to herself and others and / or to the extent that such use impairs her ability to conduct with safety to the public the practice authorized by her license. Complainant refers to and by this reference incorporates the allegations set forth above in paragraphs 14 - 15, inclusive, as though set forth fully.

## FOURTH CAUSE FOR DISCIPLINE

# (Illegally Obtain Possess Controlled Substances/Dangerous Drugs)

17. Respondent is subject to disciplinary action under sections 2761, subdivision (a), and 2762, subdivision (a), on the grounds of unprofessional conduct, in that on or about January 12, 2009, Respondent obtained or possessed opiates and marijuana, controlled substances and dangerous drugs, without valid prescriptions. Complainant refers to and by this reference

1	incorporates the allegations set forth above in paragraphs 14 - 16, inclusive, as though set forth	
2	fully.	
3	FIFTH CAUSE FOR DISCIPLINE	
4	(Unprofessional Conduct – Violating the Act)	
5	18. Respondent is subject to disciplinary action under sections 2761, subdivision (a),	
6	and (d), in that Respondent committed acts of unprofessional conduct and acts violating the	
7	Nursing Practice Act. Complainant refers to and by this reference incorporates the allegations set	
8	forth above in paragraphs 14 - 17, inclusive, as though set forth fully.	
9	PRAYER	
10	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,	
11	and that following the hearing, the Board issue a decision:	
12	1. Revoking or suspending Registered Nurse License No. 706037, issued to Respondent	
13	Geneva Lauren Smith;	
14	2. Ordering Respondent Geneva Lauren Smith to pay the Board the reasonable costs of	
15	the investigation and enforcement of this case, pursuant to section 125.3; and	
16	3. Taking such other and further action as deemed necessary and proper.	
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19	DATED: 3)10/10 Stace Benur	
20	DATED: SIVIU SUMMED., RN LOUISE R. BAILEY, M.ED., RN Interim Executive Officer	
21	Board of Registered Nursing  Department of Consumer Affairs	
22	State of California  Complainant	
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